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Executive Director

No. 88/40

May 23, 1988

TO COUNTY ASSESSORS:

CORRECTION TO LETTER TO ASSESSORS 88/24,
SERVICE STATION FIXTURES

Page 2 of recently issued letter to assessors 88/24, Service Station Fixtures, inadvertently omitted five words from the Rule 122.5 definition of a fixture. Please replace the letter with the enclosed corrected letter.

Your assistance is appreciated.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

VW:sk
Enclosure



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March 18, 1988

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TO COUNTY ASSESSORS:

No. 88/24

SERVICE STATION FIXTURES

This letter clarifies the proper classification of certain service station improvements as fixtures. Assessment of these fixtures is also discussed.

Property tax law classifies a fixture as a real property improvement. Although a structure is also a real property improvement, there are three reasons that necessitate separately identifying fixtures from structures. Reasons are as follows:

- (1) Differing definitions of "new construction."
- (2) Fixtures are their own "appraisal unit" when measuring declines in value.
- (3) Fixtures are handled differently for supplemental roll purposes.

Historically, some counties have assessed service station improvements as a single unit without differentiating between structure versus fixture improvements. The practice of appraising service station improvements as a single structural unit predates the adoption of Proposition 13. As a single unit, service station improvements have often been assessed on a square foot basis, without consideration of the individual items of property thereon. This historical approach to valuing service station improvements received tacit approval via pre-Proposition 13 language contained in Assessors' Handbook Section 581, Equipment Index Factors, which inferred that categorization of service station improvements as a single structural appraisal unit was acceptable assessment practice.

Unfortunately, the rather straightforward practice of assessing all service station improvements as a single structure improvement is not possible under present law. Property tax statutes do not accord separate treatment to certain service station improvements. Therefore, qualifying improvements must be identified, segregated, and properly categorized as "fixtures" consistent with existing statutory law and property tax rules.

Section 105 of the Revenue and Taxation Code defines "improvements" as including fixtures. Property Tax Rule 122.5 (a)(1) further clarifies and defines a fixture as follows:

March 18, 1988

"(a) DEFINITION.

"(1) A fixture is an item of tangible property, the nature of which was originally personalty, but which is classified as realty for property tax purposes because it is physically or constructively annexed to realty with the intent that it remain annexed indefinitely."

Legal basis for the valuation of improvements is found in Section 2(a) and 2(b) of Article XIII A of the California Constitution. Additionally, Section 70 of the Revenue and Taxation Code and Property Tax Rules 463(b)(5) and 463(c) define fixtures and identify the situation(s) where qualifying new construction occurs. The wording of Rule 463(c) is as follows:

"(c) For purposes of this section, 'fixture' is defined as an improvement whose use or purpose directly applies to or augments the process or function of a trade, industry, or profession."

In our opinion, service station property such as tanks, pumps, hoists, and air/water wells are examples of improvements that directly augment the function of the service station trade. As such, said improvements are properly categorized as fixture improvements.

Since some service station property has been or will be replaced, the question is whether replacement constitutes new construction. The statutes, as stated below in relevant part, are controlling in determining if fixtures are new construction.

Revenue and Taxation Code Section 70

"70. 'Newly constructed,' 'new construction.' (a) 'Newly constructed' and 'new construction' means:

"(1) Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and

"(2) Any alteration of land or of any improvement (including fixtures) since the last lien date which constitutes a major rehabilitation thereof or which converts the property to a different use.

"(b) Any rehabilitation, renovation, or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of such improvement or fixture."

Rule 463(b)(5)

"(b) 'Newly constructed' or 'new construction' means and includes:

"(5) Any substantial physical rehabilitation, renovation or modernization of any fixture which converts it to the substantial equivalent of a new fixture or any substitution of a new fixture.

"Substantial equivalency shall be ascertained by comparing the productive capacity, normally expressed in units per hour, of the rehabilitated fixture to its original productive capacity."

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The new construction statutes are controlling. As the courts have recognized, the provisions of the Assessors' Handbook are advisory only. Therefore, qualifying replacement of a service station fixture constitutes new construction, even though the assessor may have originally classified the replaced item as part of the structure when the property was originally appraised based on the Assessors' Handbook Section 581, Equipment Index Factors, notation for service stations.

Inclusion of fixtures as part of the original structure assessment may create some difficulty when later segregation of the total improvement value is necessary. An appropriate adjustment must be made to the original value to reflect the removal of an old fixture when a replacement fixture is assessed as new construction. While this may require some allocation of the total original value, it should be recognized that this is a valuation problem which does not control the issue of whether new construction occurred.

An owner should be notified when an original service station total improvement value is allocated between fixtures and structures as necessitated by later qualifying new construction. Notification is important so that taxpayers will have the necessary information to maintain their parcel records.

Any assessments, or corrections, to service station assessments must be made consistent with applicable statutes of limitation.

If you have questions regarding the assessment of service station improvements, please contact our Business Property Technical Services Section; the telephone number is (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:sk